

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PHILIPPE EHRET, CHRISTOPHE ROUGEOT,
HERVE BROCHARD and ANDRE STAMM

Appeal No. 96-0393
Application 07/955,258¹

ON BRIEF

Before WINTERS and WILLIAM F. SMITH, Administrative Patent Judges, and McKelvey, Senior Administrative Patent Judge.

WINTERS, Administrative Patent Judge.

DECISION ON APPEAL

This appeal was taken from the examiner's decision rejecting claims 1 through 4, 6 and 7, which are all of the claims remaining in the application.

Claim 1, which is illustrative of the subject matter on appeal, reads as follows:

¹ Application for patent filed October 1, 1992.

Appeal No. 96-0393
Application 07/955,258

1. Reservoir system for prolonged and constant diffusion, in an environment which is aqueous or subjected to the action of water, of an active principle which is soluble or which can be made soluble in the said environment, characterized in that it is made, at least in part, of a nonwoven consisting of continuous monofilaments or/and of microfibers made of thermoplastic synthetic polymers, the said nonwoven being (a) treated either, if it is hydrophobic in nature, with a polysiloxane or a polymer based on polysiloxane or with a quaternary ammonium salt of amphoteric type, or, if it is hydrophilic in nature, with a perfluorinated compound or with a water-repelling agent based on an acrylic resin and paraffin, and (b) fashioned, or combined with a sheet of an impermeable material, into the shape of a closed bag containing the active principle, and in that, for a given active principle, the degree of hydrophily conferred or left on the nonwoven and the dimensions of the nonwoven which define the surface area for exchange between the internal volume and the aqueous environment for which it is intended are variable and adjusted for the desired linear release kinetics.

In rejecting the appealed claims on prior art grounds, the examiner relies on these references:

Tenno et al. (Tenno)	Hei 3[1991]-38503	Feb. 19, 1991
(Japanese Kokai patent application)		
Clem et al. (Clem)	Sho 62[1987]-246999	Oct. 28, 1987
(Japanese Kokai patent application)		

Appellants and the examiner refer to abstracts of the above-cited Japanese references. However, for the purposes of appellate review, we have obtained English translations of the full text of each reference. Copies of the English translations are enclosed with this opinion. The issue presented for review is whether the examiner erred in rejecting claims 1 through 4, 6 and 7 under 35 U.S.C. § 103 as unpatentable over Japanese Kokai

Appeal No. 96-0393
Application 07/955,258

Patent Application No. Sho 62[1987]-246999 or Japanese Kokai
Patent Application No. Hei 3[1991]-38503.

OPINION

On consideration of the record, we reverse each rejection
under 35 U.S.C. § 103.

First, it is apparent that the statement of rejection set
forth in the Examiner's Answer, page 3, does not comply with
§ 706.02(j) of the Manual of Patent Examining Procedure (6th ed.,
Rev. 3, July 1997).

Second, we agree with the arguments succinctly stated by
appellants in their Appeal Brief, page 6, last paragraph, through
page 8, second full paragraph.

The examiner's decision is reversed.

REVERSED

SHERMAN D. WINTERS)	
Administrative Patent Judge)	
)	
)	
)	
WILLIAM F. SMITH)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
FRED E. McKELVEY)	
Senior Administrative Patent Judge)	

Appeal No. 96-0393
Application 07/955,258

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